4410-31

# DEPARTMENT OF JUSTICE

**Parole Commission** 

28 CFR Part 2

[Docket No. USPC- 2018-02]

Paroling, Recommitting, and Supervising Federal Prisoners: Prisoners Serving Sentences
Under the United States and District of Columbia Codes

AGENCY: United States Parole Commission, Justice.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The United States Parole Commission is amending its rule allowing hearings by videoconference to include parole termination hearings.

**DATES:** This regulation is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Comments due on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Submit your comments, identified by docket identification number USPC-2018-02 by one of the following methods:

Federal eRulemaking Portal: <a href="http://www.regulations.gov">http://www.regulations.gov</a>. Follow the online instructions for submitting comments.

 Mail: Office of the General Counsel, U.S. Parole Commission, attention: USPC Rules Group, 90 K Street, N.E., Washington, D.C. 20530.

**FOR FURTHER INFORMATION CONTACT:** Helen H. Krapels, General Counsel, U.S. Parole Commission, 90 K Street, N.E., Third Floor, Washington, D.C. 20530, telephone (202) 346-7030. Questions about this publication are welcome, but inquiries concerning individual cases cannot be answered over the telephone.

SUPPLEMENTARY INFORMATION: Since early 2004, the Parole Commission has been conducting some parole proceedings by videoconference to reduce travel costs and conserve the time and effort of its hearing examiners, and cut down on delays in scheduling in-person hearings. The Commission originally initiated the use of videoconference in parole release hearings as a pilot project and then extended the use of videoconferencing to institutional revocation hearings and probable cause hearings. Using videoconference for termination hearings is a natural progression in the use of this technology. The hearings are informal administrative proceedings and there is little value in having the hearing examiner and the offender appear in person.

There are several benefits to using videoconferencing for parole termination hearings, which are conducted pursuant to 28 CFR 2.43(c) and 2.95(c). Videoconferencing will save time and expense for travel, which will allow the hearing examiner to make the best use of his or her time in the office. The examiner will have access to documents in the parolee's file and can quickly resolve problems or answer questions. Videoconference may offer the possibility of more expeditious hearings and decisions regarding the disposition of the case.

The Commission is promulgating this rule as an interim rule in order to determine the utility of the videoconference procedure for parole termination hearings and is providing a 60-day period for the public to comment on the use of the procedure for such hearings.

The amended rule will take effect upon publication in the Federal Register and will apply to termination hearings conducted on or after the effective date.

### Executive Orders 12866 and 13563

This regulation has been drafted and reviewed in accordance with Executive Order 12866, "Regulation Planning and Review," section 1(b), Principles of Regulation, and in accordance with Executive Order 13565, "Improving Regulation and Regulatory Review," section 1(b), General Principles of Regulation. The Commission has determined that this rule is not a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and accordingly this rule has not been reviewed by the Office of Management and Budget.

# **Executive Order 13132**

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Under Executive Order 13132, this rule does not have sufficient federalism implications requiring a Federalism Assessment.

# Regulatory Flexibility Act

This rule will not have a significant economic impact upon a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 605(b).

#### **Unfunded Mandates Reform Act of 1995**

This rule will not cause State, local, or tribal governments, or the private sector, to spend \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. No action under the Unfunded Mandates Reform Act of 1995 is necessary.

# Small Business Regulatory Enforcement Fairness Act of 1996 (Subtitle E-Congressional Review Act)

This rule is not a "major rule" as defined by Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 Subtitle E-Congressional Review Act, now codified at 5 U.S.C. 804(2). The rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on the ability of United States-based companies to compete with foreign-based companies. Moreover, this is a rule of agency practice or procedure that does not substantially affect the rights or obligations of non-agency parties, and does not come within the meaning of the term "rule" as used in Section 804(3)(C), now codified at 5 U.S.C. 804(3)(C). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

# List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners, Probation and parole.

# The Interim Rule

Accordingly, the U. S. Parole Commission is adopting the following amendment to 28 CFR part 2:

## PART 2 - [AMENDED]

1. The authority citation for 28 CFR part 2 continues to read as follows:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

2. Revise §2.25 to read as follows:

§2.25 Hearings by videoconference.

The Commission may conduct a parole determination hearing (including a rescission hearing), a

probable cause hearing, an institutional revocation hearing, and a parole termination hearing by

videoconference between the hearing examiner and the prisoner or releasee.

Patricia K. Cushwa,

Chairman (Acting), U.S. Parole Commission.

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